

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2009 DEC 28 AM 9:21

CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY Re DEPUTY

CIVIL ACTION NO. A-09-CA-700-JN

UNOPPOSED MOTION TO INTERVENE

Michael Rappé, by and through his undersigned attorney, moves this Court for an order permitting him to intervene as party plaintiff in the above-captioned action, and in support of this motion would show:

1. Intervening petitioner Michael Rappé is the charging party in Equal Opportunity Commission (“EEOC”) Civil Action No. A-09-CA-700-JN, and is the individual damaged as a result of the Defendant’s unlawful conduct.

2. The EEOC has brought this action for injunctive and other relief against Defendant under Title 1 of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et. seq.*

3. Under Fed. R. Civ. P. 24(a)(1), intervention shall be granted “when a statute of the United States confers an unconditional right to intervene.” The statutory language of Title VII, 42 U.S.C. § 2000e-5(f)(1), grants the charging employee an unconditional right to intervene in cases brought by the EEOC, and has been incorporated into the Americans with Disabilities Act, 42 U.S.C. §12117(a).

4. Additionally, Petitioner has a right to intervene in this action because he has interests in the subject of the action, and because disposition of this case without his involvement may as a practical matter impair or impede his ability to protect his interests. Fed. R. Civ. P. 24(a)(2). Further, his ability to protect his interests will likely be impaired if not all of his claims are properly before the Court.

5. Alternatively, Petitioner maintains that he should be allowed to intervene pursuant to Fed. R. Civ. P. 24(b)(2), which governs the intervention of parties by permission, as Petitioner states claims and those in this action have common issues of law and fact.

6. Allowing Petitioner to intervene and to assert his additional claims will not in any manner, delay the hearing or disposition of this matter nor raise any jurisdictional or venue issues.

7. A copy of the Petitioner's proposed complaint in intervention is attached to this motion as Exhibit A.

8. No party opposes this motion.

WHEREFORE, Petitioner Michael Rappé moves the Court to:

- A. Allow him to intervene in this action as a matter of right, or, in the alternative, exercise the Court's discretion to allow his permissive intervention;
- B. Order that the attached Complaint in Intervention be filed on his behalf; and
- C. Permit Michael Rappé to participate fully in all phases of this action and to recover all relief to which he may be entitled.

Respectfully submitted,



BRIAN EAST
Texas Bar No. 04653400
BETH MITCHELL
Texas Bar No. 00784613
ADVOCACY, INC.
7800 Shoal Creek Blvd., Suite 171-E
Austin, Texas 78757
(512) 454-4816 Phone
(512) 454-3999 Fax
Email: beast@advocacyinc.org
Email: bmitchell@advocacyinc.org

CERTIFICATE OF SERVICE

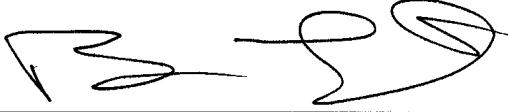
I hereby certify that on this 28th, day of December, 2009, a true and correct copy of the foregoing document, in electronic form, was sent to the person listed below in accordance with the Local Rules for the U.S. District Court for the Western District of Texas:

Local Rules for the U.S. District Court for the Western District of Texas:

Edward Juarez
Judith Taylor
Equal Employment Opportunity Commission
5410 Fredericksburg Rd., Ste. 200
San Antonio, Texas 78229

Robert A. Canino
Equal Employment Opportunity Commission
207 S. Houston St., 3rd Fl.
Dallas, Texas 76051

Jaime Mata
Paul Andrew Drummond
AT&T Texas
1010 N. St. Mary's, 14 Fl.
San Antonio, Texas 78215



Brian East

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ORDER

Before the Court is Michael Rappé's Unopposed Motion to Intervene. The Court having reviewed the motion along with the record finds that it should be, and hereby is, GRANTED.

So ORDERED and SIGNED this ____ day of _____, ____:

JUDGE PRESIDING